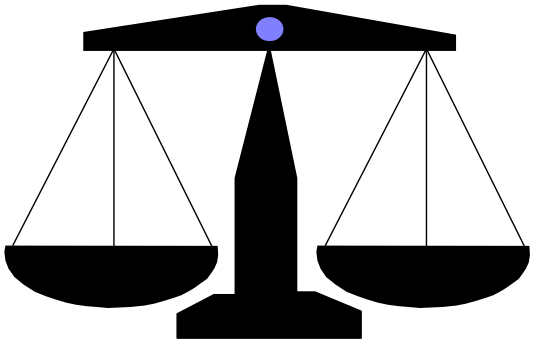
Victory thru Justice!

Military Justice



Three Simple Messages

- Don’t Break The Rules!
- Take Responsibility For Your Actions!
- Keep Your Hands To Yourself!

Areas of Discussion

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- The UCMJ
  - Jurisdiction
  - Sex Offenses
  - Other UCMJ Offenses
  - Fraternization/Illegal Associati
  - Military Justice Personnel
  - Consequences Of Violating The UCMJ
- Victim/Witness Assistance

Areas of Discussion

Victory thru Justice!

- DoD Policy On Homosexual Conduct
- Extremist Activities & Organizations
- Standards Of Conduct

Personal Jurisdiction

- Regular Army, Active Duty Soldiers
- Cadets and Midshipmen
- Reservists (active duty or inactive duty training)
- National Guardsmen (when in federal service)
- Retirees

When/Where Does the UCMJ Apply?

- 24 hours a day/7 days a week
- Anywhere you are in the world
- Even after discharge, if discharge fraudulently obtained
- Even after active duty status is terminated for Reserve/Guard soldiers

Sex Offenses under the UCMJ

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- Rape
- Carnal Knowledge
- Sodomy
- Indecent Assault
- Indecent Acts or Liberties w/a Child
- Indecent Acts
- Indecent Language
- Indecent Exposure
- Adultery
- Prostitution
- Pandering
- Sexual Harassment

Other UCMJ Offenses in the Training Environment

- **Article 85** - Desertion
- **Article 86** - Absent Without Leave
- **Articles 90/91** - Insubordinate Conduct (Disrespect)
- **Article 90/91/92** - Failure To Obey Order Or Regulation (Illegal Associations)

Illegal Orders

- Definition: Orders that do not relate to "military duty." They do not:
  - Accomplish a military mission or
  - Safeguard or promote morale, discipline, and usefulness of soldiers and
  - Directly connected to good order in the Army
- There is no obligation for a soldier to obey an illegal order. However, soldiers disobey at own risk.

Your Response to an Illegal Order

- Clarify the order with the superior (You might have misunderstood!).
- Next, inform the superior that you believe the order is illegal.
- If the illegal order stands, request to speak with the company commander or a higher-level commander.
- Finally, disobey the illegal order if necessary

Other UCMJ Offenses

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- **Article 112a** - Illegal Drugs
  - Random Urinalysis
  - Prescription Sharing
- **Article 115** - Malingering
  - Faking Illness/Injury
  - Intentional infliction of self-injury
- **Article 121** - Larceny/Theft
  - ATM Fraud
  - PX/Barracks Theft

Other UCMJ Offenses

- **Article 107** - False Official Statement
- **Article 134 -** (Prohibits conduct prejudicial to good order and discipline or service discrediting; assimilates state/federal law)
- **Article 134** - False Swearing

Larceny and Wrongful Appropriation

Wrongful taking, obtaining, or withholding money, personal property, or articles of value from the owner or any other person.

Robbery

Taking anything of value from someone against his or her will by means of force or violence, or by threatening immediate or future injury of the victim or another.

Fraternization

Army Policy on Relationships Between Soldiers

Fraternization
Basic Army Standard

The Army prohibits all unprofessional relationships that:

- Compromise the chain of command
- Cause actual or perceived partiality or unfairness
- Involve the improper use of rank for personal gain
- Are or perceived to be exploitative or coercive in nature
- Create an adverse impact on discipline, authority, morale, or mission accomplishment

Fraternization
The Army Standard

- Prohibits personal relationships between officer and enlisted regardless of their Service.
- Categories of specifically prohibited conduct:
  - Dating
  - Shared living accommodations
  - Engaging in intimate or sexual relations
  - Business enterprises
  - Commercial solicitations
  - Gambling/Borrowing

Personal Relationships Between SITs and Permanent Party

- Drinking, Dancing, Gambling
- Writing/Receiving Personal Letters
- Privately-Owned Vehicles (POVs)
- Sexual Conversations
- Sexual Contact - kissing, hugging, caressing, fondling, handholding
- Sexual Intercourse

Romantic Relationships Between SITs

- Human Nature
- Focus On Mission
- Maintain Perspective

Military Justice Personnel

Victory thru Justice!

- Convening Authority
- Trial Counsel
- Defense Counsel
- Military Judge
- Panel Members (Jury)

Consequences Of Violating the UCMJ

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- Reduction in rank/grade
- Forfeiture of pay & allowances
- Discharge (BCD or DD)
- Confinement

Article 15s

- Purpose: Train-Correct-Reform
- Rights Of The Accused
  - Right to remain silent
  - Right to a hearing (tell your side of the story) w/spokesperson
  - Right to go to a court-martial
  - Right to appeal

Victim and Witnesses of Crime

- **<u>REPORT</u>** the crime *immediately* to your chain-of-command

- If you can't, **<u>REPORT</u>** the crime to the chaplain, Inspector General (IG), JAG, the Military Police, or the Criminal Investigation Division (CID)

Why Report a Crime Immediately?

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- To STOP the criminal - so no one else becomes a victim
- Interview witnesses and victims
- Collection of physical evidence

DoD Policy On Homosexual Conduct

- " A member of the armed forces shall be separated from the armed forces… (if) the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act…" U.S. Code, Title 10 Section 654
- Sexual orientation is a personal and private matter, and not a condition of service
- Homosexual conduct is counter to good order and discipline and incompatible with military service
- **Focuses on CONDUCT, not ORIENTATION**

DoD Policy On Homosexual Conduct

(2 of 7)

Victory thru Justice!

Homosexual conduct is:

- **STATEMENT (admission of homosexuality, such as a declaration by the solder that he or she is homosexual**
- **ACT (bodily contact between persons or the same sex for the purpose of satisfying sexual desires)**
- **MARRIAGE (marrying, or attempting to marry a person of the same gender)**

DoD Policy On Homosexual Conduct

(3 of 7)

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"Don't Ask, Don't Tell"

- **Don't Ask - Army will not ask soldiers about their sexual orientation; leaders who violate this policy will be held accountable.**
- **Don't Tell - Soldiers have no obligation to reveal their sexual orientation; but if soldiers do reveal their sexual orientation; it can be used to discharge them from the Army**

DoD Policy On Homosexual Conduct

(4 of 7)

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Investigating Homosexual Conduct

- Only commanders can initiate inquires
- Credible information must first exist
- A commander must have a reasonable belief that a soldier has engaged in homosexual conduct (S-A-M)
- A commander must confine all inquires to alleged homosexual conduct (not orientation)

DoD Policy On Homosexual Conduct

(5 of 7)

Threats/Harassment of Soldiers

No Mistreatment, harassment, or inappropriate comments or gestures undermine good order and discipline

DoD Policy On Homosexual Conduct

(6 of 7)

- **Threats/Harassment of Soldiers**
  - **Soldiers being harassed or threatened should report to:**
    - **Lowest member of the chain-of-command is preferred**
    - **Other avenues to report:**

      Confidential – Chaplains, legal assistance

      Nonconfidential – other members of the chain-of-command, IG, health services, etc.

DoD Policy On Homosexual Conduct

(7 of 7)

- **Complaints of harassment/threats are taken seriously and will be promptly investigated**
  - **Those receiving complaints will not ask about sexual orientation; leaders who do will be held accountable**
  - **Those reporting harassment should not be investigated and need not tell about homosexual statement/conduct.**

Extremist Activities & Organizations

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DoD Policy Statement

The activities of extremist organizations are inconsistent with the responsibilities of military service. Military personnel must reject participation in extremist organizations and activities.

Extremist Groups

- Advocate racial, gender, or ethnic hatred or intolerance.
- Create or engage in discrimination based on race, color, sex, religion, or national origin.
- Use force or violence or unlawful means to deprive individuals of their constitutional or statutory rights.

Prohibited Activities

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- Participating in a public demonstration.
- Fund raising.
- Recruiting/training new members.
- Distributing literature on/off post.
- Creating, organizing, or taking leadership role in organization.
- Other activities adversely affecting good order, discipline, or morale in unit.

Prohibited Activities

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(2 of 2)

Attending meetings or activities with knowledge that extremist causes are involved <u>when</u>:

- on duty or in uniform
- in foreign country
- constitutes a breach of law & order
- violence is likely to result.
- violation of commander's orders

Extremist Activities & Organizations

Soldier's Responsibilities:

- Avoid affiliation with any extremist organization.
- Report extremist activity to chain of command.
- Seek clarification from chain of command on topics/issues.

Standards of Conduct

- Always act with integrity.
- Use gov't property for gov't business only.
- Use gov't personnel for gov't business only.
- Never use official position for personal gain.

Three Simple Messages

- Don’t Break the Rules!
- Take Responsibility for your actions!
- Keep your hands to yourself!

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QUESTIONS?